

# Supreme Court of Kentucky

## ORDER

**IN RE: ORDER APPROVING AMENDMENTS TO THE LOCAL RULES OF PRACTICE FOR THE 40th JUDICIAL CIRCUIT, CLINTON, CUMBERLAND AND MONROE COUNTIES**

Upon recommendation of the Circuit Judge of the 40th Judicial Circuit, Clinton, Cumberland and Monroe Counties, and being otherwise sufficiently advised,

The amendments to the Local Rules of Practice for the 40th Judicial Circuit are hereby approved. This order shall be effective as of the date of this Order, and shall remain in effect until further orders of this court.

Entered this 22<sup>nd</sup> day of September 2010:

  
CHIEF JUSTICE

# **COMMONWEALTH OF KENTUCKY 40<sup>TH</sup> JUDICIAL CIRCUIT**

## **LOCAL RULES**

(REVISED SEPTEMBER 2010)

**CLINTON CIRCUIT COURT  
CUMBERLAND CIRCUIT COURT  
MONROE CIRCUIT COURT**

\*\*\*\*\*

**JUDGE - HON. EDDIE C. LOVELACE**

**JUDGE NUMBER - 640070**

**SECRETARY – JENNIFER STORIE**

**LEGAL ASSISTANT – JOYCE LOVELACE**

**LAW CLERK –**

**PHONE- (606 387-5986**

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**MAILING ADDRESS – 104 CUMBERLAND STREET  
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**CLINTON CIRCUIT CLERK –**

**JAKE STATON**  
100 S. CROSS STREET  
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**CUMBERLAND CIRCUIT CLERK -**

**NANCY BREWINGTON**  
P.O. BOX 395  
BURKESVILLE, KY 42717  
(270) 864-2611 – Phone  
(270) 864-1227 – Fax

**MONROE CIRCUIT CLERK -**

**JOYCE EMBERTON**  
P.O. BOX 245  
TOMPKINSVILLE, KY 42167  
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# **TABLE OF CONTENTS**

## **CHAPTER I: GENERAL**

- A. MOTION DAYS
- B. MASTER COMMISSIONERS
- C. DOMESTIC RELATIONS CASES
- D. FEES OF THE DOMESTIC RELATIONS COMMISSIONER
- E. TIME ZONES
- F. SUBMISSION OF CASES TO THE COURT
- G. SETTING OF CASES FOR TRIAL
- H. PRETRIAL CONFERENCE
- I. PRETRIAL STATEMENTS
  - 1. Provisions
  - 2. Sanctions
- J. LABELING OF EXHIBITS
- K. TRIALS
- L. SETTLED CASES
- M. COPIES TO BE SENT TO COURT REPORTER
- N. SERVICE OF SUBPOENA BY LAW OFFICE PERSONNEL OR PARTY

## **CHAPTER II: CRIMINAL PROCEEDINGS**

- A. APPEARANCES AND ARRAIGNMENTS
- B. MOTION HOURS
- C. REPRESENTATION IN CRIMINAL CASES
- D. PRETRIAL CONFERENCES
- E. PLEA AGREEMENTS
- F. TRANSPORTATION ORDERS
- G. DRUG COURT

## **CHAPTER III: CIVIL PROCEEDINGS - GENERAL**

- A. APPLICABILITY OF OTHER CHAPTERS
- B. MOTION HOURS
- C. MOTION AND NOTICE
  - 1. Filing And Service Of Motion And Notice
  - 2. Scheduling Motions
  - 3. Filing And Service Of Responsive
  - 4. Computation Of Time For Filing And Service
- D. FILING OF INTERROGATORIES AND REQUESTS FOR ADMISSION
- E. TAKING DEPOSITIONS BY VIDEO TAPE

## **CHAPTER I: GENERAL**

### **A. MOTION DAYS:**

**Clinton County:** First and Third Mondays of Each Month  
**Cumberland County:** Fourth Thursday of Each Month  
**Monroe County:** Third Wednesday of Each Month

### **B. MASTER COMMISSIONERS:**

**The Master Commissioner for the Clinton Circuit Court is:**

**Hon. Norbert Sohm**  
212 Cumberland Street  
Albany, KY 42602  
(606) 387-8112 – Phone  
(606) 387-5486 – Fax

**The Master Commissioner for the Cumberland Circuit Court is:**

**Hon. Norbert Sohm**  
212 Cumberland Street  
Albany, KY 42602  
(606) 387-8112 – Phone  
(606) 387-5486 – Fax

**The Master Commissioner for the Monroe Circuit Court is:**

**Hon. Reed N. Moore, Jr.**  
P.O. Box 235  
Tompkinsville, KY 42167-0235  
(270) 487-6262 – Phone  
(270) 487-8000 – Fax

### **C. DOMESTIC RELATIONS CASES:**

**The Domestic Relations Commissioner for Clinton, Cumberland, and Monroe Counties is:**

**Hon. Norbert Sohm  
212 Cumberland Street  
Albany, KY 42602  
(606) 387-8112 – Phone  
(606) 387-5486 – Fax**

1. Circuit Clerks shall not file a Divorce Petition unless it is accompanied by the Vital Statistics Information Sheet signed by the attorney. The petitioner shall file a sworn disclosure statement within 15 days after the filing of the Petition for Dissolution of Marriage and it shall include an itemized listing of all marital property and its value, all debts and the amounts, all property claimed as non-marital and the basis of the claim, the income of each party and other information the petitioner may believe will assist in making a proper disposition of the property. Respondent may refute this in the Answer with a sworn counter disclosure statement or the petitioner's itemized listing will be accepted as agreed or stipulated. Nothing contained herein shall prevent an individual from proceeding with pro se representation and said individual proceeding pro se shall comply with the same provisions as if he or she were represented by an attorney.
2. The Domestic Relations Commissioner shall hear all contested and uncontested matters arising from actions for the dissolution of marriage, child custody, support and maintenance under KRS Chapter 403, except that incarceration resulting from a finding of contempt shall be imposed only after a hearing before the Court at which time the Court shall permit additional evidence to be presented and shall give the party charged with contempt an opportunity to purge himself or herself of such contempt. Proceedings for restraining orders and injunctions shall be heard only by the Court.
3. The Domestic Relations Commissioner will preside over hearings on post-judgment motions in domestic relations matters to enforce or modify a final decree of child support, custody, or visitation and maintenance or disposition of marital property.
4. Petitions for adoption or termination of parental rights will not be referred to the Domestic Relations Commissioner.
5. The Domestic Relations Commissioner shall have the authority to make recommendations to the Judge regarding motions for temporary orders of custody, support and maintenance.
6. The Domestic Relations Commissioner shall make his final findings and recommendations forty-five (45) days from the date an action is submitted to the said Domestic Relations Commissioner.

7. Prior to the filing of a motion to be heard before the Domestic Relations Commissioner, counsel for the moving party shall contact the Domestic Relations Commissioner to schedule a time for the hearing on the motion and inform the Domestic Relations Commissioner of the anticipated length of the hearing. The time, date, and place of the hearing shall be included in the notice served upon the opposing parties. If the matter to be heard is resolved prior to the time of a hearing, the Domestic Relations Commissioner shall be promptly notified.

8. In divorce actions the Final Decree will not be entered by the Court until both parties have completed the Families In Transition (FIT) Program unless a specific waiver is entered by the Court.

**D. FEES OF THE DOMESTIC RELATIONS COMMISSIONER:**

The Domestic Relations Commissioner shall be entitled to compensation for matters heard by or referred to him as follows:

*Section 4 of AP Part IV*

For any hearing the Domestic Relations Commissioner shall receive a fee of \$60.00 per hour, assessed at a rate of \$15.00 for each quarter hour or part thereof. Such fees shall be paid through the office of circuit court clerk to the commissioner and shall be due on the fifth working day following the conclusion of the hearing. No more than \$600.00 shall be assessed in any case regardless of the number and length of hearings unless recommended by the Circuit judge and approved by the Chief Justice for extraordinary circumstance shown. If a case is reopened additional fees totaling not more than \$200.00 may be assessed. No more than \$15.00 shall be assessed in any uncontested divorce.

The fees of the Domestic Relations Commissioner will be treated as part of the court costs in final decrees. Uncontested divorces may be submitted by deposition or oral evidence.

All post-judgment motions in domestic relations cases filed more than six months following the entry of the final decree should be accompanied by a \$50 .00 (fifty dollars) filing fee to be paid to the Clerk of the respective Circuit Courts in the 40th Judicial District pursuant to K.R.S. 23A.200(8).

The Domestic Relations Commissioner may waive the collection of fees.

**E. TIME ZONES:**

The 40<sup>th</sup> Judicial Circuit is comprised of Clinton, Cumberland, and Monroe counties. All three (3) counties are in the central time zone. Reference are made in accordance.

**F. SUBMISSION OF CASES TO THE COURT:**

Cases may be submitted to the Court pursuant to a motion on Rule/Motion Day or at any time on a joint motion. In either event, the office of the Circuit Clerk shall be notified when a case is ready for the Court to take under submission.

**G. SETTING OF CASES FOR TRIAL:**

Motions to set a case for trial may be made on any Rule/Motion Day and shall contain a certification that the case will be ready for trial by the trial date. If the case is set, and no party has filed a motion for continuance before 14 days prior to the trial date, the Court may impose sanctions resulting from any continuance thereafter granted.

**H. PRETRIAL CONFERENCE:**

A party may move for a pretrial conference at the time the case is set for trial or at any time from the setting of the trial date until 14 days from the date of trial by an appropriate motion on Rule/Motion Day.

**I. PRETRIAL STATEMENTS:**

**1. PROVISIONS** – Pretrial compliance statements shall be filed by all parties 14 days before the trial date. All exhibits which may be used at trial shall be listed and copies, if feasible, shall be attached to the pre-trial statement. All exhibits which cannot be attached to the pretrial statement shall be made available for inspection by opposing counsel at a convenient location designated in the pre-trial statement. All witnesses and expert witnesses who may be used at trial shall be listed, along with their addresses and telephone numbers. Also, as to each expert witness who has not been deposed, the pretrial statement shall state the subject matter on which the expert is expected to testify and shall state the substance of the facts and opinions to which the expert is expected to testify and a summary of the grounds for each opinion .

**2. SANCTIONS** - Failure to file the pretrial statement in a timely manner may result in the Court denying the use of any witness at trial other than the parties. Failure to comply with the substantive provisions of this rule may result in the Court denying the use of any witness for whom the substantive provisions have not been met.



**J.     LABELING OF EXHIBITS:**

All exhibits intended for use at trial shall be labeled for identification purposes prior to trial.

**K.     TRIALS:**

All trials start promptly at 9:00 a.m.

**L.     SETTLED CASES:**

When any action which is set for trial is settled, the parties shall immediately notify the office of the circuit clerk or the Court of this fact.

**M.     COPIES TO BE SENT TO COURT REPORTER:**

A copy of any Notice of Appeal, Designation of Record or Order to Proceed in forma pauperis shall be sent to the court reporter or circuit clerk by the attorney filing same. Any party desiring a transcript shall timely notify the court reporter or circuit clerk of the date by which said transcript is needed.

**N.     SERVICE OF SUBPOENA BY LAW OFFICE PERSONNEL OR PARTY:**

To the extent that the sheriff would be compensated for similar service, service of subpoena by law office personnel or a party will be considered as costs when assessing costs.

## **CHAPTER II: CRIMINAL PROCEEDINGS**

### **A. APPEARANCES AND ARRAIGNMENTS:**

Arraignment will be held on the first Rule Day following the Grand Jury session at 9:00 a.m. in all counties. The Court will order that a Grand Jury transcript be provided to the defendant and will issue a Discovery Order covering preliminary matters. This, of course, does not preclude the defendant from making any motion for further discovery at the criminal motion hour on any Rule/Motion Day.

### **B. MOTION HOURS:**

Motion hours for criminal matters shall begin at 9:00 a.m. in all counties on Rule/Motion Days.

### **C. REPRESENTATION IN CRIMINAL CASES:**

Once an attorney appears for a defendant in a criminal case, he shall not be allowed to withdraw as counsel thereafter, except upon a showing of extraordinary circumstances.

### **D. PRETRIAL CONFERENCES AND PLEA AGREEMENTS:**

After a pretrial conference has been set by the Court the Commonwealth Attorney and/or the Assistant Commonwealth Attorney and counsel for the defendant(s) shall agree to meet and discuss any possible plea agreements or resolutions of the case. At this meeting the defendant shall be present and if an agreement is reached concerning a plea agreement, same shall be reduced to writing and signed by the Commonwealth Attorney and/or the Assistant Commonwealth, counsel for the defendant, and the defendant(s). Same shall be submitted to the Court for approval **BEFORE** the scheduled date of the pretrial conference.

Failure to comply could result in a dismissal at this Court's discretion.

### **F. TRANSPORTATION ORDERS:**

All Transportation orders shall be tendered to the Court no later than four (4) business days before a scheduled court appearance.

Failure to comply could result in the Defendant/Party not being transported to the scheduled court appearance.

**G. DRUG COURT:**

**Clinton County Drug Court** will meet on the First and Third Monday of every month at 11:30 a.m.

**Cumberland County Drug Court** will meet on the Fourth Thursday of every month at 11:30 a.m.

**Monroe County Drug Court** will meet on the Third Wednesday of every month at 11:30 a.m.

## **CHAPTER III: CIVIL PROCEEDINGS**

### **A. APPLICABILITY OF OTHER CHAPTERS:**

The provisions of Chapter I above apply to all civil proceedings.

### **B. MOTION HOURS:**

Motion hours for civil matters shall be assigned for times certain by the Circuit Court Clerk of the county where the motion is to be heard.

### **C. MOTION AND NOTICE:**

**1. FILINGS AND SERVICE OF MOTION AND NOTICE** - Each motion to be made on a Rule/Motion Day, except uncontested matters under Chapter IV shall be filed in the office of the circuit clerk five (5) days preceding the Rule/Motion Day for which the motion is initially set. Each motion shall be served on the opposing party represented by counsel at least five (5) days preceding the Rule Day for which the motion is initially set if service is by mail. Service shall be effected five (5) days preceding the Rule/Motion Day for which the motion is initially set if service is delivery pursuant to CR 5.02 .

**2. SCHEDULING MOTIONS** - Any attorney desiring to set a motion shall contact the appropriate Circuit Court Clerk's Office. The attorney shall notify the Circuit Court Clerk's Office of the approximate time required to hear the motion. The attorney shall also send a copy of the motion to the Circuit Judge. Failure to comply with the above provisions shall result in the motion not being heard on the date and time specified.

Child support actions initiated by the County Attorney's Office shall be filed by the office of the County Attorney related to calculation of child support and noticed for 10:00 a.m.

The office of each circuit court clerk shall not schedule motions to the extent that time intervals exist when nothing is occurring in court.

**3. FILING AND SERVICE OF RESPONSIVE MOTIONS** - Each responsive motion shall be filed in the office of the circuit clerk two (2) business days in Clinton County and 5 business days in Cumberland and Monroe Counties preceding the Rule/Motion Day for which the original motion is initially set. Each responsive motion shall be served on opposing counsel or a party, if not represented by counsel, at least two (2) business days in Clinton County and 5 business days in Cumberland and Monroe Counties preceding the Rule/Motion Day for which the original motion is initially set if service is effected pursuant to CR 5.02.

**4. COMPUTATION OF TIME FOR FILING AND SERVICE** - Time for filing and service of motions and responsive motions shall be computed in accordance with CR 6.01.

**D. FILING OF INTERROGATORIES AND REQUEST FOR ADMISSION:**

Pursuant to these local rules, all interrogatories and responses thereto and all requests for admission and answers or objections thereto shall be filed of record in the office of the circuit clerk.

**E. TAKING DEPOSITIONS BY VIDEO TAPE:**

Either party may take any or all depositions by videotape or disk, with said depositions to be taken pursuant to the terms and conditions of the attached "Order Regarding Videotape Depositions". However, only the cost of the stenographic transcript will be considered in assessing costs.

Given under my hand as Judge of the Clinton, Cumberland, and Monroe Circuit  
Courts on this the 1<sup>st</sup> day of Sept, 2010.

  
EDDIE C. LOVELACE, JUDGE

**COMMONWEALTH OF KENTUCKY**  
**40<sup>TH</sup> JUDICIAL CIRCUIT**  
**CIRCUIT COURT**  
**CASE NO. \_\_\_\_\_**

**COMMONWEALTH OF KENTUCKY**

**PLAINTIFF**

**VS**

**DEFENDANT**

**ORDER FOR VIDEO DEPOSITION**

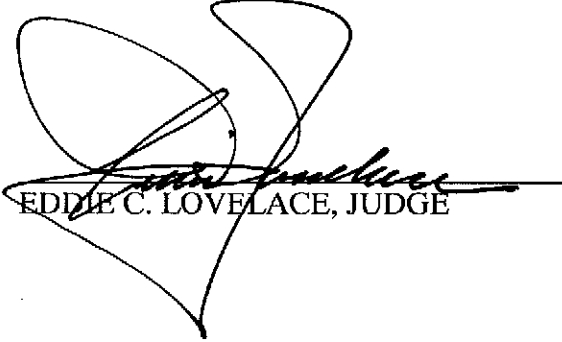
The Plaintiff is hereby granted permission to take any depositions for proof by video. The video deposition to be taken shall be under the following protective provisions:

1. At the beginning of the taking of the deposition, the operator of the video camera will focus on each person present at the taking of the deposition and such person shall be identified to the jury. Thereafter, the camera will focus on the witness only, whether the interrogation be direct or cross examination.
2. The camera will remain stationary at all times during the deposition and will not “zoom” in or out on the witness or any other person present at the deposition excepting those times during the deposition when the witness is displaying for the jury’s viewing exhibits or other pieces of demonstrative proof that can only be fairly and reasonably seen on the videotape or disk by use of the camera “zooming” in on said evidence. The purpose of this clause is so that the camera will not “zoom” in on the witness solely to give unfair or

undue influence upon the words of the witness and does not apply to the “zooming in” for the other purposes described above.

3. The deposition will be stenographically transcribed in addition to the video recording.
4. The videotape or disk itself will be available for the Court and any and all counsel to compare the stenographic transcript with the videotape or disk transcript. If discrepancies appear between the stenographic transcript and the videotape or disk transcript recording, the discrepancies will be resolved by agreement of counsel or ruling of the Court if counsel cannot agree. The decision on the matter in which to handle the discrepancies insofar as the videotape or disk is concerned will be included in the agreement of counsel or ruling of the Court.
5. Testimony to which objections are sustained by the Court will be electronically erased, both as to image and to sound, from the videotape or disk. Objections which are overruled will be subject to further order of the Court as to whether the image and sound of the objection itself shall be presented to the jury.
6. Admissibility of the tape or disk may be objected to by any counsel if a review of the finished tape or disk reveals any technical errors giving undue emphasis to the testimony of the witness which would unfairly prejudice the side objecting; or if the general technical quality of the tape or disk is so poor that its being viewed by the jury would be unfairly prejudicial to the side so objecting.

7. Before presentation to the jury, the Court will instruct the jury that they give no more or no less weight to the testimony of the witness than if he was present in court testifying.



EDDIE C. LOVELACE, JUDGE